



To: DWD Employees with Access to Federal Taxpayer Information
DWD Hiring Managers
DWD Contractors

From: Indiana Department of Workforce Development

Date: November 27, 2017

Subject: DWD Policy #2017-08
Suitability Standards for Department of Workforce Development Employee and Contractor Access to Federal Taxpayer Information

Purpose

The purpose of this policy is to define and establish procedural guidelines, background checks, and suitability standards for applicants, employees, and contractors who may have access to Federal Tax Information (FTI) as part of their job duties with the Department of Workforce Development (DWD). IRS Publication 1075 requires that DWD create a written policy that ensures compliance with IRS standards for persons having access to FTI.

DWD is committed to protecting its information, particularly its FTI. Upon being approved to handle FTI, employees and contractors will be required to maintain safeguard procedures as established by this agency and the IRS. Employees and contractors will be required to have background checks and a suitability review every ten years.

References

- **IRS Publication 1075, September 2016 Revision (<https://www.irs.gov/pub/irs-pdf/p1075.pdf>)** is a publication issued by the IRS that gives detail requirements for governmental agencies and their employees that have access to FTI. This publication provides guidance to ensure the policies, practices, controls, and safeguards employed by recipient agencies, agents, or contractors adequately protect the confidentiality of FTI.
- **5 CFR 731.201 (<https://www.gpo.gov/fdsys/pkg/CFR-2012-title5-vol2/pdf/CFR-2012-title5-vol2-sec731-201.pdf>)** is a Federal regulation utilized by the IRS for determining **Suitability Standards** for applicants, appointees, and employees. Many of the **Suitability Standards** used by the DWD are adapted from this regulation.

Content

Definitions

Background Check means all necessary checks required in order to have access to FTI. IRS Pub 1075 requires that checks must include, at a minimum, fingerprint checks (as permitted by the FBI), local law enforcement checks, and citizenship verification.

Citizenship Requirement Check means a subject's eligibility to legally work in the United States. Utilizes Form I-9.

Federal Tax Information (FTI) consists of tax returns and tax return information. FTI can be either or both. FTI is any return or return information received from the IRS or an IRS secondary source, such as the Social Security Administration, Federal Office of Child Support Enforcement, Bureau of Fiscal Services, or the Center of Medicare and Medicaid Services. FTI is also shared under agreements allowed by statute or regulations.

Fingerprinting means fingerprint background checks, as permitted by the FBI.

Local Law Enforcement Check means checks at local law enforcement agencies where the subject has lived, worked, and/or attended school within the past five years. These may include searches of the Indiana Data and Communications System (IDACS) and the National Crime Information Center (NCIC), as permitted by the FBI.

Suitability Standards means agency criteria for determining a subject's suitability to have access to FTI. Suitability is a person's identifiable character traits and conduct sufficient to decide whether an individual's employment or continued employment would or would not protect the efficiency of DWD and its use and storage of FTI.

Procedures

1. **Background Check Requirements:** These requirements are conducted in conjunction with both state and federal agencies. It is the duty of the Unemployment Insurance Director to ensure that all necessary steps have been completed before a subject is allowed access to **FTI**.
 - a. **Process:** FTI access requires that a subject pass the following checks:
 - 1) **Fingerprinting**, as permitted by the FBI
 - 2) **Citizenship Requirement Check** to verify eligibility to legally work in the United States
 - 3) **Criminal History Check** where the individual has lived, worked, and/or attended school within the last five years
 - b. **Timeframe.** DWD Development will conduct all **Background Checks** in a timely manner. The subject will not be allowed access to **FTI** until he/she passes all **Background Checks** and receives a favorable rating under DWD **Suitability Standards**.
 - c. **Suitability Standards.** DWD will consider the following crimes and activities in determining an individual's suitability to access **FTI**:
 - 1) Theft;
 - 2) Larceny;
 - 3) Burglary;
 - 4) Robbery;
 - 5) Fraud;
 - 6) Identity Theft;
 - 7) Illegal Credit Card Use of Another;

- 8) Any crime involving fraud, deceit, or dishonesty with a potential for financial gain to the individual or for the benefit of another;
 - 9) Any crime with a direct link to the individual's specific job functions;
 - 10) Material or intentional false statement, deception or fraud in examination or appointment; or
 - 11) Any statute or regulatory bar which prevents the lawful employment of the person involved in the position in question.
- d. DWD must consider any of the following additional considerations to the extent DWD deems any of them pertinent to the individual's case:
- 1) The nature of the position for which the person is applying or in which the person is employed;
 - 2) The nature and seriousness of the conduct;
 - 3) The circumstances surrounding the conduct;
 - 4) The recency of the conduct;
 - 5) The age of the person involved at the time of the conduct; and
 - 6) The absence or presence of rehabilitation or efforts towards rehabilitation.
- e. **For Employees, Contractors and Sub-contractors Currently in Positions that Require Access to FTI:** The Unemployment Insurance Director, or her designee, shall have discretion on retention decisions for any employee, contractor or sub-contractor who has been found guilty of any of the crimes or activities listed above, or similar crimes or activities, based on the age and circumstances of the underlying events leading to the guilty finding. Current employees must comply with investigation requirements, and revocation of access to FTI may result in dismissal.
- 1) **Mandatory Duty to Report Arrests and Convictions Still in Effect:** The State Personnel Department Standardized Policy and Responsibilities and Procedures regarding Arrests and Convictions (available at <http://www.in.gov/spd/2396.htm>) still applies to all Employees, Contractors and Sub-Contractors, including those whom are covered by this Policy.
- f. **For Employees, Contractors and Sub-contractors under Consideration for Hire in Positions that Require Access to FTI:** The Unemployment Insurance Director, or her designee, shall not employ or contract with any person who has been found guilty of any of the crimes or activities listed above, or similar crimes or activities, within the last five (5) years. For guilty findings older than five (5) years, the appointing authority or designee shall have discretion on hiring decisions based on the age and circumstances of the underlying events leading to the guilty finding.
- g. **Re-investigation Check Requirements.** IRS Pub 1075 requires that a reinvestigation of employees must be conducted within ten (10) years from the date of the previous background investigation for each employee and contractor having access to FTI. Re-investigations will encompass the full ten (10) year period.
- h. **Safeguard Requirements.** DWD will apply the following policies regarding document security:
- 1) **FTI Access, Retention, and Destruction Information:**
 - i. Peoplesoft ELM FTI Training and Certification
 - ii. Division-specific training materials
 - iii. IRS Publication 1075 Section 5, Restricting Access (IRC 6103(p)(4)(C))
 - 2) **Use of Resource Information:**

- i. Acceptable Use Policy (IRUA) IOT-CS-SEC-008
([https://secure.iot.in.gov/00.4_Acceptable_Use_Policy_\(The%20IRUA\).pdf](https://secure.iot.in.gov/00.4_Acceptable_Use_Policy_(The%20IRUA).pdf))
 - ii. Information Resource Use Agreement (IRUA)
(http://in.gov/iot/files/The_Information_Resources_Use_Agreement_-_2015.pdf)
 - iii. Access Control IOT-CS-SEC-138
(https://secure.iot.in.gov/06.1.1_Access_Control.pdf)
 - iv. Personnel Screening NIST800-53, Control PS-3
(<https://nvd.nist.gov/800-53/Rev4/control/PS-3>)
- 3) **Employee Reporting Requirements:** it is the employee's duty to notify his/her Supervisor and HR representative immediately of any of the following:
- i. Changes in the employee's suitability to access FTI
 - ii. When any unauthorized personnel has gained access to FTI

Effective Date

Immediately

Ending Date

Upon Recession

Contact for Questions

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